

not imported in the preceding 6 months yellowfin tuna or yellowfin tuna products that are subject to a ban on direct importation into the United States under Section 101(a)(2)(B) of the MMPA. At that time, the nation shall no longer be considered an "intermediary nation" and these import restrictions shall no longer apply.

(v) The Assistant Administrator will review decisions under this paragraph upon the request of an intermediary nation. Such requests must be accompanied by specific and detailed supporting information or documentation indicating that a review or reconsideration is warranted. For purposes of this paragraph, the term "certification and reasonable proof" means the submission to the Assistant Administrator by a responsible government official from the nation of a document reflecting the nation's customs records for the preceding 6 months, together with a certification attesting that the document is accurate.

(10) *Fish refused entry.* If fish is denied entry under paragraph (f)(2) of this section, the Port Director of Customs shall refuse to release the fish for entry into the United States.

(11) *Disposition of fish refused entry into the United States.* Fish that is denied entry under paragraph (f)(2) of this section and that is not exported under Customs supervision within 90 days shall be disposed of under Customs laws and regulations at the importer's expense. Provided, however, that any disposition shall not result in an introduction into the United States of fish caught in violation of the MMPA.

(12) *Market Prohibitions.* It is unlawful for any person to sell, purchase, offer for sale, transport, or ship in the United States, any tuna or tuna products unless the tuna products are either:

(i) Dolphin-safe under subpart H of this part; or

(ii) Harvested in compliance with the IDCP by vessels under the jurisdiction of a nation that is a member of the IATTC or has initiated, and within 6 months thereafter completes, all steps required by an applicant nation to become a member of the IATTC and the nation has an affirmative finding.

(g) *Penalties.* Any person or vessel subject to the jurisdiction of the United States will be subject to the penalties provided for under the MMPA for the conduct of fishing operations in violation of these regulations. Penalties for violating these regulations may include, but are not limited to, civil monetary fines, permit suspension or revocation, and reductions in current and future DMLs. Recommended sanctions are identified in the IDCPA/DPCIA Tuna/Dolphin Civil Administrative Penalty Schedule. Procedures for the imposition of penalties under the MMPA are found at 15 CFR part 904.

§ 216.25 Exempted marine mammals and marine mammal products.

(a) The provisions of the MMPA and these regulations shall not apply:

(1) To any marine mammal taken before December 21, 1972¹, or

(2) To any marine mammal product if the marine mammal portion of such product consists solely of a marine mammal taken before such date.

(b) The prohibitions contained in § 216.12(c) (3) and (4) shall not apply to marine mammals or marine mammal products imported into the United States before the date on which a notice is published in the FEDERAL REGISTER with respect to the designation of the species or stock concerned as depleted or endangered.

(c) Section 216.12(b) shall not apply to articles imported into the United States before the effective date of the foreign law making the taking or sale, as the case may be, of such marine mammals or marine mammal products unlawful.

[39 FR 1852, Jan. 15, 1974, as amended at 56 FR 43888, Sept. 5, 1991; 59 FR 50376, Oct. 3, 1994]

§ 216.26 Collection of certain marine mammal parts without prior authorization.

Notwithstanding any other provision of this subpart:

(a) Any bones, teeth or ivory of any dead marine mammal may be collected from a beach or from land within 1/4 of a mile of the ocean. The term *ocean* includes bays and estuaries.

(b) Notwithstanding the provisions of subpart D, soft parts that are sloughed, excreted, or discharged naturally by a living marine mammal in the wild may be collected or imported for bona fide scientific research and enhancement, provided that collection does not involve the taking of a living marine mammal in the wild.

(c) Any marine mammal part collected under paragraph (a) of this section or any marine mammal part collected and imported under paragraph

¹In the context of captive maintenance of marine mammals, the only marine mammals exempted under this section are those that were actually captured or otherwise in captivity before December 21, 1972.